United Nations CRPD/C/KOR/QPR/2-3

Convention on the Rights of Persons with Disabilities

Distr.: General
27 March 2018

Original: English
English, Russian and Spanish only

Committee on the Rights of Persons with Disabilities

List of issues prior to submission of the combined second and third periodic reports of the Republic of Korea*

A. Purpose and general obligations (arts. 1–4)

1. Please indicate what measures have been taken by the State party to review the Welfare of Disabled Persons Act and harmonize it with the human rights-based approach to disability, in accordance with the Convention. Please provide information on any steps taken to ensure that the Act also applies to persons with intellectual and psychosocial disabilities covered by the Mental Health and Welfare Act.

2. Please indicate whether and how the State party has made changes to the disability determination and rating system under the Welfare of Disabled Persons Act to ensure that the assessment reflects the characteristics, circumstances and needs of persons with disabilities, and that welfare services and personal assistance are extended to all persons with disabilities, including those with psychosocial disabilities, in accordance with their requirements.

3. Please indicate whether the State party has any specific time frame for ratifying the Optional Protocol to the Convention.

B. Specific rights (arts. 5–30)

Equality and non-discrimination (art. 5)

4. Please provide information on:

(a) Steps and measures taken to increase the human resources and independence of the National Human Rights Commission of Korea;

(b) Measures to waive or reduce the cost of lawsuits for victims of disability discrimination in order to ensure access to remedies through the courts, and to lower the requirements for the Ministry of Justice to issue a remedial order;

(c) Programmes and activities to raise awareness among judges of the need to implement effectively the Anti-Discrimination against and Remedies for Persons with Disabilities Act and to exercise the injunctive powers conferred upon them;

(d) The number of notifications of disability-related complaints that the Ministry of Justice receives from the National Human Rights Commission compared to the number of other complaints;

(e) Statistics on legal aid related to lawsuits based on violations of the Anti-Discrimination against and Remedies for Persons with Disabilities Act.

* Adopted by the Committee at its nineteenth session (14 February–9 March 2018).

GE.18-04798(E)

1804798

Please recycle

Women with disabilities (art. 6)

5. Please indicate whether and by which measures the State party:

(a) Mainstreams a gender perspective in its disability legislation and policies, and develops specialized policies for women with disabilities, including to combat intersectional and multiple forms of discrimination;

(b) Addresses violence against women with disabilities both inside and outside residential institutions, including psychological and physical violence by family members, in particular by introducing a disability-sensitive perspective when formulating educational programmes on the prevention of sexual and domestic violence;

(c) Ensures that women with disabilities receive appropriate lifelong education according to their choices and needs, and that they are provided with financial support to pursue education, if necessary;

(d) Increases its support to women with disabilities during pregnancy and childbearing, and puts in place any safeguards to prevent forced sterilization, abortion or deprivation of parenthood.

Children with disabilities (art. 7)

6. Please indicate any measures taken to maximize the participation of children with disabilities and their families through their representative organizations, when enacting or amending laws or formulating policies concerning children, to ensure their full inclusion.

Awareness-raising (art. 8)

7. Please provide information on measures taken to strengthen awareness-raising campaigns to reinforce the positive image of persons with disabilities as holders of human rights, including in the media.

8. Please indicate what efforts the State party has made to systematically and continuously publicize the Convention, and educate government officials, members of the parliament, the media and the general public on its contents and purpose.

Accessibility (art. 9)

9. Please explain how the State party has taken steps and measures, in line with the Committee's general comment No. 2 (2014) on accessibility, to:

(a) Review current public transportation policies in order to ensure that persons with disabilities can use all types of public transportation safely and conveniently, including intercity transportation;

(b) Apply accessibility standards to all public facilities and workplaces, regardless of their size, capacity or date of construction;

(c) Amend the relevant laws to ensure that all persons with disabilities can gain access to information, in particular through websites, mobile communications and consumer electronics.

10. Please indicate the effectiveness of the barrier-free accreditation system in both public and private facilities, and explain the efforts made by the State party to improve the level of accreditation of private facilities.

Situations of risk and humanitarian emergencies (art. 11)

11. Please provide information on measures taken to ensure that the disaster risk reduction plans and strategies at the national and local levels explicitly provide for accessibility and inclusion of persons with disabilities, in all situations of risk, in line with the Sendai Framework for Disaster Risk Reduction 2015–2030 and Goal 7 of the Incheon Strategy to "Make the Right Real" for Persons with Disabilities in Asia and the Pacific.

Equal recognition before the law (art. 12)

12. Please provide information on progress made by the State party to:

(a) Move from substituted decision-making to supported decision-making, in full conformity with article 12 of the Convention and with the Committee's general comment No. 1 (2014) on equal recognition before the law, and to repeal the adult guardianship system accordingly;

(b) Provide training, in consultation and cooperation with persons with disabilities through their representative organizations, at the national, regional and local levels for all actors, including civil servants, judges and social workers, on the recognition of the legal capacity of persons with disabilities and on the mechanisms of supported decision-making.

Access to justice (art. 13)

13. Please explain the efforts made by the State party to:

(a) Ensure the effective implementation of article 26 of the Anti-Discrimination against and Remedies for Persons with Disabilities Act;

(b) Incorporate into training programmes for all relevant parties in the justice system standard modules on the provision of age-appropriate, gender-sensitive and procedural accommodation for persons with disabilities, in order to guarantee their access to justice;

(c) Implement effectively the Guidelines for Judicial Assistance for Persons with Disabilities, published by the Korean Supreme Court, and make them legally binding through legislative action;

(d) Provide procedural accommodation during all stages of judicial and notary proceedings, including to persons in prison, and appropriate training to the relevant professional groups;

(e) Provide measures, including reasonable accommodation, to ensure that persons with disabilities can work as judges, prosecutors and lawyers.

Liberty and security of the person (art. 14)

14. Please provide information on the progress made by the State party to:

(a) Repeal the existing legal provisions allowing for the deprivation of liberty on the basis of impairment, including psychosocial impairment;

(b) Adopt measures to ensure that health-care services, including all mental health-care services, are based on the free and informed consent of the person concerned, following the provision and implementation of the newly amended Mental Health and Welfare Act;

(c) Until the laws allowing for the deprivation of liberty are amended, review all cases involving the deprivation of liberty of persons with disabilities in hospitals and specialized institutions, and ensure that the reviews include a possibility of appeal;

(d) Establish procedural accommodations that guarantee a fair trial and due process for persons with disabilities;

(e) Remove the declaration of unfitness to stand trial from the criminal justice system to ensure that persons with disabilities are entitled to the same due process as others.

Freedom from torture or cruel, inhuman or degrading treatment or punishment (art. 15)

15. Please provide information on the progress made by the State party to:

(a) Abolish forced medical interventions and treatment that subject persons with disabilities to cruel, inhuman or degrading treatment or punishment, including physical restraint, isolation and forced medication;

(b) Until deinstitutionalization is achieved, protect persons with disabilities in psychiatric hospitals from torture and other cruel, inhuman or degrading treatment in any form through effective safeguards, and particularly to establish effective external independent monitoring mechanisms that ensure the participation of organizations representing persons with disabilities.

Freedom from exploitation, violence and abuse (art. 16)

16. Please provide updated information on the measures taken by the State party to investigate cases of violence, exploitation and abuse experienced by persons with disabilities, both inside and outside institutional settings; to ensure that the perpetrators are prosecuted and the victims receive reparation; and to provide accessible shelters for all persons with disabilities who are victims.

17. Please provide information on the establishment of an adequate protection system for persons with disabilities who have been victims of forced labour. Please indicate whether effective, long-term measures have been taken to protect the victims of confirmed forced labour cases.

Protecting the integrity of the person (art. 17)

18. Please indicate the progress made to eradicate the practice of forced sterilization, and describe any awareness-raising activities and measures designed to protect persons with disabilities from this practice. Please clarify whether forced sterilization is explicitly prohibited.

Liberty of movement and nationality (art. 18)

19. Please provide information on the progress made to repeal article 11 of the Immigration Control Act and article 32 of the Welfare of Disabled Persons Act, to ensure that persons with disabilities are not deprived of the right to enter the Republic of Korea based on their disability, and that migrants with disabilities do not have restricted access to basic disability services.

Living independently and being included in the community (art. 19)

20. With many persons with disabilities still living in institutions, please describe any measures taken by the State party to achieve effective deinstitutionalization, in line with the Committee's general comment No. 5 (2017) on living independently and being included in the community. Please indicate the measures to be taken and provide a time frame for the effective deinstitutionalization of all persons currently living in institutions. Please also provide information on the number of persons with disabilities who have been deinstitutionalized and their current situation.

21. Please provide information on any policies that aim to increase disability-related support services in the community, including in particular personal assistance services under the Welfare of Disabled Persons Act and minimum living support benefit under the National Basic Living Security Act, based on the requirements and economic status of the persons with disabilities, not their "degree of impairment" or the income of their family members.

Freedom of expression and opinion, and access to information (art. 21)

22. Please indicate any progress made by the State party to:

(a) Implement effectively the Korean Sign Language Act and the Braille Act;

(b) Include accessibility standards in the regulations on ensuring access to broadcast television and online material for persons with disabilities;

(c) Provide public information in accessible and Easy Read formats.

Respect for home and the family (art. 23)

23. Please describe any measures taken by the State party to provide a legal basis for, and implement, comprehensive policies to enable parents, including single mothers, of children with disabilities to receive support to raise their child within the family, and to ensure their child has the same rights to family and to participation in the community as other children. Please also indicate whether the State party has any plans to ensure that biological and adoptive families of children with disabilities are treated equally.

24. Please describe the efforts made to ensure that persons with disabilities can exercise their right to marry and found a family.

Education (art. 24)

25. Please provide information on progress made by the State party, in line with the Committee's general comment No. 4 (2016) on the right to inclusive education, to:

(a) Conduct research into the effectiveness of the current education inclusion policy and how it could be improved, including in the case of deaf-blind students;

(b) Increase efforts to provide inclusive education and reasonable accommodation in schools and other learning institutions by providing, inter alia, assistive technology and support in classrooms, accessible and adapted educational materials and curricula, and accessible school environments;

(c) Intensify training for education personnel, including teachers and administrators in mainstream schools;

(d) Take active awareness-raising measures to promote a positive image of persons with disabilities among students and school staff, and implement a zero-tolerance policy for any case of bullying or physical violence towards students with disabilities.

26. Please provide justification for building additional special schools.

Health (art. 25)

27. Please describe any progress made by the State party to amend article 732 of the Commercial Act, which recognizes life insurance contracts for a person with disabilities only if that person can prove that he or she "possesses mental capacity", and to withdraw its reservation to the provision in article 25 (e) of the Convention regarding life insurance. Please provide information on the measures taken to increase the accessibility of medical facilities. Please indicate whether the State party has any plans to subsidize or to cover the cost of disability-related health-care services, which is currently borne by persons with disabilities themselves.

Work and employment (art. 27)

28. Please describe any measures the State party has taken to:

(a) Repeal discriminatory legislation that excludes or limits the participation of persons with intellectual and psychosocial disabilities in the labour market;

(b) Compensate those persons with disabilities who are excluded from the benefit of the Minimum Wage Act, including through revision of the Minimum Wage Act;

(c) Move away from sheltered workshops toward alternatives to promote the employment of persons with disabilities, in line with the Convention;

(d) Ensure that there is an effective mandatory employment quota system in place for persons with disabilities, particularly for women with disabilities, to increase their participation in the labour market;

(e) Ensure that persons with disabilities are also employed in the public sector.

Adequate standard of living and social protection (art. 28)

29. Please provide information on any plans to review the disability income and social security policy, with regard to increasing the amount of disability allowance and disability pension to cover the high cost of living within the State party.

Participation in political and public life (art. 29)

30. Please describe any measures taken by the State party to ensure that persons with all types of disabilities have the right to vote and to stand for elections, with the full guarantee that they can access voting facilities, information campaigns and other forms of assistance. Please also indicate the measures taken to ensure that the persons voting can choose their own assistant.

Participation in cultural life, recreation, leisure and sport (art. 30)

31. Please specify measures taken by the State party to effectively implement the Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired, or Otherwise Print Disabled. Please also describe what measures the State party has taken to ensure that the recently organized XXIII Winter Olympic and Paralympic Games and other sporting events are fully inclusive of and accessible to persons with disabilities.

C. Specific obligations (arts. 31–33)

Statistics and data collection (art. 31)

32. Please provide updated information on the measures taken by the State party to systematize the collection, analysis and dissemination of data, in accordance with the methodology of the Washington Group on Disability Statistics, disaggregated by sex, age, ethnicity, impairment, place of residence, geographic area, education and employment status, and types of benefits received. Please indicate whether publicly available statistics have been made accessible.

International cooperation (art. 32)

33. Please provide information on the measures taken by the State party to ensure that all of its international development programmes and activities are inclusive of and accessible to all persons with disabilities, taking into account the linkages between the effective implementation of the Convention, the Incheon Strategy and the 2030 Agenda for Sustainable Development.

National implementation and monitoring (art. 33)

34. Please describe any measures taken by the State party to:

(a) Ensure that the Policy Coordination Committee for Persons with Disabilities carries out its role to develop and implement effective policies related to persons with disabilities;

(b) Provide the National Human Rights Commission of Korea with sufficient human and financial resources to monitor effectively the implementation of the Convention;

(c) Ensure full and effective participation of persons with disabilities and their representative organizations in the monitoring of the implementation of the Convention.